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Fifty-fourth session
Third Committee
Agenda item 116 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Letter dated 15 October 1999 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a memorandum in connection with General Assembly resolution 53/162 of 9 December 1998, entitled"Situation of human rights in Myanmar" (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the General Assembly under agenda item 116 (c).

(*Signed*) Win **Mra**
Ambassador
Permanent Representative

99-30358 (E) 011199

Annex

Memorandum concerning the situation of human rights in Myanmar

Introduction

General Assembly resolution 53/162 adopted without a vote at the 53rd Session of the United Nations General Assembly decided to continue its consideration of the Situation of Human Rights in Myanmar at the fifty-fourth session of the United Nations General Assembly. The resolution urged the Government of the Union of Myanmar to take certain specific measures in the areas of concern to the international community. On adoption of the resolution in question, the representative of the Union of Myanmar explicitly stated that the resolution was negative and accusatory and that what it portrayed was far from the objective conditions in the country. Besides, the resolution totally ignored the positive steps that the present Government was taking hitherto to improve the situation in the country. For this reason, the Myanmar delegation was compelled to dissociate itself from the said resolution. This, however, does not necessarily change Myanmar consistent policy of cooperating with the United Nations to the fullest extent possible. At the same time, the Government of the Union of Myanmar continued to demonstrate its sensitivity to and understanding of the concern of the international community as its responsible member. It also continued with determination to preside over the systematic transition towards a democratic system and made every effort to improve the overall situation of the country on all fronts. Myanmar has, accordingly, witnessed significant developments of positive nature during the period since the adoption of General Assembly resolution 53/162. The present Memorandum provides information on these developments to enable the member states to better understand the real situation in the Union of Myanmar.

Efforts for the prevalence of peace and stability

Peace and development are mutually reinforcing and development of the country cannot be achieved without first establishing peace. Drawing lessons from the post independence history of the country replete with the armed insurrections of the ethnic groups, resulting primarily from the divide and rule policy under colonial rule, the government strongly believes that lasting peace can be achieved only through the unity among the national races. This belief led the Government to make energetic efforts to establish peace with the armed groups of the national races as a matter of top priority. As a result, the Government has been able to maintain peace and stability throughout the country. This is the first time in many decades that peace could be maintained for so may years on end. At the same time, with a view to further consolidate the existing peace, the Government has launched an ambitious plan for the development of border areas and national races. The Government has spent over 15 billion Kyats on the plan. As a

reflection of trust in the Government's sincere efforts, the national races are actively involved with the Government in their regional development efforts as equal partners.

Although the Kayin National Union(KNU) remains intransigent and still pursues the policy of armed insurrection, the Government's offer of peace to the KNU still stands. However, The KNU is a quickly-diminishing force operating only in certain areas across the border as many of its members have exchanged arms for peace.

Suppression of Narcotic drugs

The border areas of the Union of Myanmar have lagged behind other parts of the country in development mainly due to inadequate infrastructure and internal insurgency problems. Certain border areas have totally relied on poppy cultivation and the Government decided that it must strive for the development of border areas and national races to be able to totally eradicate poppy cultivation. Towards that end, a Central Committee for the Development of Border Areas and National Races was formed on 25 May 1989. For more effective implementation of border areas and national races development, a separate ministry was instituted on 24 September 1992 and the Law on Development of Border Areas and the National Races was promulgated on 13 August 1993. One of the main purposes of the Law is the total elimination of poppy growing through creation of alternative economic activities for the local populace.

The Government regards the suppression of narcotic drugs as a national task and the top priority. Accordingly, it has been making all-out efforts for the multi-faceted development of border areas with a view to getting rid of the practice of poppy growing in the border areas. A Master Plan covering the period from 1999 to 2014 has been adopted to totally eradicate poppy cultivation in cooperation with ethnic groups who signed peace agreements with the Government. Currently, the plan is being implemented in a comprehensive manner in 51 townships in Shan, Kachin, Chin and Kayah States. The Plan includes activities such as eradication of poppy cultivation and opium production, interdiction, and encouragement of local participation in such activities. The Plan could be implemented in a shorter time-frame if international cooperation is available.

In accord with the Master Plan, several areas have been declared opium-free zones and poppy cultivators have now turned to alternative crops, and stepped-up law enforcement measures have led to increased seizures of narcotic drugs. Furthermore, the government was able to considerably reduce the production of opium and heroin despite very little international assistance. However, a new wave of danger has emerged recently in the form of new synthetic drugs such as Methamphetamine. These new drugs are being produced along porous borders of Myanmar, with precursors and drug-making equipment smuggled in from the neighbouring countries. The Government is now redirecting its efforts to effectively address this problem as a matter of top priority through cooperation with the countries concerned in the region.

A landmark event in the Government's efforts against narcotic drugs is the hosting of the Fourth International Heroin Conference in Yangon in February 1999. The

Conference was attended by delegates from 28 countries and contributed to enhancement of cooperation and understanding among nations in combating the global menace of drugs.

The problem of narcotic drugs is a global issue that requires concerted efforts based on the principle of shared responsibility. Myanmar's relentless efforts are far from appreciated and criticisms against the Myanmar Government continue for political reasons. However, Myanmar is committed to the total elimination of narcotic drugs. Although there is little assistance from the international community to these efforts, the Government has achieved considerable success on its own. Compared to 1997 figures, opium production decreased by 26 per cent in 1998 and it was the lowest level of production reached in ten years since 1988. The objective of total elimination of narcotic drugs will be achieved sooner than later if the international community could provide assistance. The Government will continue the implementation of the 15-year plan and will at the same time cooperate with other ASEAN members to achieve the goal of "Drug Free ASEAN by the year 2020".

Efforts against Money Laundering

The Government of Myanmar enacted the Narcotic Drugs and Psychotropic Substances Law on 27 January 1993. This Law improved upon the previous drug law of 1974. In 1995, Rules for the 1993 Law were declared. The 1995 Rules include provisions for effective measures against money laundering activities. These rules also empower the Central Committee for Drug Abuse Control(CCDAC) to carry out financial investigation and seize property in any suspected cases of money-laundering. The Rules also provide for bilateral and trilateral cooperation in transboundary situations of money-laundering on a case-by-case basis. Furthermore, a separate body called "the Property Examination Committee" has been formed for the purpose of scrutinizing capital as well as movable and immovable property gained from drug-related offences. The property confiscated from 1993 to 31 December 1998 was valued at over 96.3 million Kyats.

Democratization Process

The establishment of a democratic society is the ultimate goal of the Government. The Government is fully committed to the achievement of this goal and it is now laying necessary ground-work for such a democratic system to effectively function. The Government is, therefore, transitory in nature and making every attempt to accelerate the process of transition to democracy. The National Convention, which is the present political process involving representatives of national races, political parties, and delegates from all walks of life, has made considerable headway and has agreed on the basic principles that will govern the future of the country. This indeed is a great achievement for us. Currently, all the participants in the national convention are making arduous efforts for reaching consensus on the extremely sensitive issue of power-sharing. In view of the sensitive nature of the issues and its far-reaching implications for the country's future, it is vitally important for the National Convention to proceed

systematically and with the greatest caution possible to safeguard the interest of all the national races and not to repeat the shortcomings of the previous two constitutions. The Government firmly believes that the National Convention is the only political process suitable for Myanmar and that consensus will be achieved finally. It is worth reiterating that the Government will transfer power to a new government which will be democratically elected under the new constitution.

Question of Religious Tolerance

The recent surge of interest in the state of religious tolerance in Myanmar is an area where the international public opinion has been deliberately misled through allegations based on misinformation or political motivation. On close examination of these allegations reaching the Government through various channels, they are found to be unsubstantiated. In a country where nearly ninety percent of a population of 48.15 million are Buddhists, it is understandable that other faiths may have been concerned without valid reason about possible persecution or intolerance by another dominant faith. These misplaced concern appear to have been exploited by some quarters.

Religious freedom in Myanmar is a well-known fact and the Government fully realizes the importance of giving equal treatment to all religion in a multi-racial country like Myanmar. Our previous two constitutions provided for safeguards against religious discrimination and intolerance. Similarly, the fundamental principles which we had agreed upon in the National Convention process guarantee religious indiscrimination and tolerance. Religious harmony and freedom in Myanmar is a tradition shared and fully observed by all faiths. On its part, the Government has taken all necessary steps to encourage and nurture the prevailing harmony among the religions through continuous contacts with respective religious leadership and provision of assistance in both financial and material terms to enable them to promote their faiths effectively. In addition, the Government has never taken discriminatory action or steps concerning religions and there has never been instances of intolerance or persecution by the Government or any dominant religion. The Government is determined to keep the Myanmar society free of religious intolerance and persecution to the best of its ability and help all religions in all possible ways co-exist harmoniously with each other.

Economic Development of the country

The market-oriented economic policy of the Government and its full encouragement of the private sector has led to the achievement of sustained economic growth for the country over the several past years. The country achieved an average annual growth rate of 7.5 percent against the original target of 5.6 percent in its four-year plan from 1992-93 to 1995-96 . Total investment increased by an average annual growth rate of 31.6 percent during the plan period. This achievement was attained relying almost entirely on the country's own resources and foreign direct investment and also without the benefit of official development assistance(ODA) and concessional loans. However, the currency crisis in Asia has resulted in 5.3 per cent reduction of foreign direct investment

commitments in fiscal year 1997-98 compared to those in previous fiscal year and there were some slow-downs in economic growth. Even then the economic growth was still considerable, registering 5.7 per cent against the target of 6.4 for the fiscal year 1997-98 and 5.6 per cent against the target of 6.6 per cent for the fiscal year 1998-99.

As adequate infrastructure is a precondition for the sustained development of the country, the Government is focusing its efforts on infrastructure development. Significant achievements have been made in this area. Although there was only a single bridge across the most important river of the country, the Ayeyawady, for over a century, the Government has been able to build five more bridges across the river. Furthermore, new roads and rail links have been constructed adding significantly to the existing transportation network of the country.

For the economic development of the country, another area to which the Government is paying particular attention is the agriculture sector. The agriculture sector of Myanmar accounts for 36 per cent of GDP, 35 per cent of total exports and employs 63 per cent of total labour force. Therefore, agricultural sector occupied a place of importance in Myanmar economy. With a favourable ratio of population to land and abundant water resource, it is also an area Myanmar has a marked comparative advantage. For this reason, the first of the four national economic objectives of the Government is the development of agriculture as the base for all-round development of other sectors of the economy as well. To promote agriculture productivity, the Government has laid down five strategic measures under which it is carrying out an extensive programme of land reclamation in wet land and virgin land, granting large land holdings to private companies. As a result, the private sector alone has added 1.1 million acres to the existing arable land. At the same time, with a view to provide sufficient water to the agriculture sector, the Government has instituted a substantial programme for the construction of new reservoirs and dams, resulting in considerable increase in irrigated areas. Up to now the Government has constructed 97 dams. Through these efforts for the promotion of agriculture productivity, the Government is aiming to increase its exports of rice and to contribute to food supply both domestically and regionally.

Significant developments in the field of human rights

Myanmar fully subscribes to the human rights norms enshrined in the Universal Declaration of Human Rights and it has been underscored on numerous occasions that the Government does not condone any human rights violations. While giving particular attention to basic human rights such as food, clothing and shelter of the people, the Government is also prepared to cooperate with relevant organizations whenever necessary. In mid-1999, the government took a significant step in that direction by receiving a delegation from the International Committee of the Red Cross (ICRC) and made detailed arrangements for them to visit the prisons in Myanmar and to interview the inmates in accordance with the ICRC standard procedures. The government extended full cooperation to the ICRC Delegation and the visits were successful and productive,

enabling both sides to build mutual trust and goodwill. It is hoped that these visits will serve as initial steps towards further cooperation with the ICRC.

In August, the government of Myanmar accepted the visit to Myanmar of Mr. Chris Sidoti, the Australian High Commissioner for Human Rights. The visit provided an opportunity between the Commissioner and the authorities of the Myanmar government on the possibility of establishing a national human rights institution in Myanmar and on cooperation between the two countries on human rights matters. As a consequence, certain areas of cooperation between the two countries could be identified.

In July, the government received a fact-finding mission to Myanmar of the Troika of the European Union. It is the hope of the government that the mission will pave the way for further strengthening the relations between the EU and Myanmar and enhance the contacts and dialogue between the two to a more meaningful and substantive stage in the future.

Cooperation with the United Nations

Myanmar continues to cooperate with the United Nations by accepting the proposal for the visit of Mr. Alvaro de Soto, Special Envoy of the Secretary-General of the United Nations, to Myanmar in October this year.

Developments regarding the recommendations of the ILO Commission of Enquiry

General Assembly resolution 53/162 urged the Government of the Union of Myanmar to fulfil its obligations as a State Party to the Forced Labour Convention , 1930 (No.29) and to implement the recommendations of the ILO Commission of Enquiry. In this connection, the Government of the Union of Myanmar had issued Order No. 1/99 dated 14 May 1999 to make the two relevant Acts - the Towns Act of 1907 and the Village Act of 1907, to conform to the changing situations in the country such as security, administrative, economic and social conditions.

Under these two Acts, powers are conferred on the chairmen of the Village Tract and Ward Peace and Development Councils to enable them to execute their public duties. Under such powers, they have the right to requisition for personal services of the residents of the village tracts and wards. Under Order No. 1/99, the chairmen of the Village Tract and Ward Peace and Development Councils and other local authorities concerned shall not exercise the afore-mentioned powers conferred under the two Acts. In addition, this Order clearly stipulates that any person who fails to abide by the order shall have actions taken against him or her. The Order has already been promulgated in the Myanmar National Gazette, where all laws, procedures, notifications, regulations and directives are published. It has been circulated not only to all State bodies, Government ministries, and all local administrative bodies but also to local and international media at the conclusion of the ASEAN Labour Ministers' Meeting in Yangon on 15 May 1999.

Despite the contention by the ILO that neither the Village Act nor the Towns Act has not been amended as required in the recommendations of the ILO Commission of Enquiry, Order No. 1/99, which has the force of law, has, in effect, ended the requisition of personal services from the residents of the village tracts and wards all over the country.

Other developments

In 1999, anti-government elements engaged in a well orchestrated plan to create unrest in the country. They started the preparations for the plan from the closing months of 1998 to incite a civil unrest on 9 September 1999 as the 4 Nine movement. In March, a 4 Nine Committee was formed with representatives from 11 dissident groups. In April, the 9999 Action Committee was set up to bring together various opposition groups and coordinate the plan for the civil unrest on 9 September 1999. As part of the plan, instigative leaflets were clandestinely distributed in some cities in Myanmar such as Bago, Thaton, Ye and Mawlamyine to incite the people. Similar leaflets were brought into the country for distribution by dissidents in the country. In all these actions taken to create a large civil unrest, some foreign media and broadcasting services assisted. However, the Government was able to prevent in timely manner all the attempts to translate the plan into reality.

The cases of Mawdsley and Goldwyn, who deliberately broke the laws of Myanmar, are the instances that took place as part of the plan for the civil unrest on 9 September 1999.

On 30 September, several armed terrorist students seized the Myanmar Embassy in Bangkok and made demands for the release of so-called political prisoners. Although this outrageous event ended peacefully, the event demonstrated the extent to which anti-government elements both inside and outside the country could go to destabilize the country.

Active Participation in Regional Affairs

Since becoming a member of ASEAN, Myanmar has been more actively involved in regional affairs as a matter of policy. It is the belief of the Myanmar Government that the active participation in the affairs of the region will enhance understanding among the countries of the region and contribute to finding solutions to regional problems. Myanmar is committed to cooperate with other ASEAN member countries to build Southeast Asia not only as a region which is outward-looking, living in peace, stability and prosperity, and bound together in partnership in dynamic development but also a community of caring societies. Myanmar has fully cooperated with ASEAN in the integration process and actively participated in the ASEAN activities. In this regard, the two significant events of Myanmar's involvement were the hosting of the 13th ASEAN Labour Ministers Meeting in Yangon in May and the holding of the 2nd ASEAN Ministerial Meeting on Transnational Crime in Yangon in June 1999.

Conclusion

The Government of Myanmar is committed to the establishment of a democratic political system and taking steps towards that goal. At the same time, the Government is making every effort to improve the overall situation of the country in the face of various constraints and obstacles and undue political pressures. The fact that peace is at present prevailing in areas where insurgencies were widespread in the past and the achievements on the economic front attest to the success of the Government's efforts.

Consideration of the situation of Myanmar without taking into account all aspects of the difficulties confronted in transition to a new political system will not be balanced by any standards. It is hoped that the resolution will reflect the objective situation in the country in a fair and balanced manner.

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Agenda items 107 and 116 (a)
Crime prevention and criminal justice

Human rights questions: implementation of human rights instruments

Letter dated 27 October 1999 from the Permanent Representative of Singapore to the United Nations addressed to the President of the General Assembly

I have the honour to transmit herewith a copy of my letter to Mary Robinson, the United Nations High Commissioner for Human Rights (see annex). This is a response to her message of 12 October 1999 on the issue of the death penalty.

I should highly appreciate it if you would circulate the present letter and its enclosure as a document of the General Assembly, under agenda items 107 and 116 (a).

(*Signed*) Kishore **Mahbubani**
Ambassador Extraordinary and Plenipotentiary

99-32299 (E) 011199

Annex

Letter dated 27 October 1999 from the Permanent Representative of Singapore addressed to the United Nations High Commissioner for Human Rights

1. I refer to your statement on the death penalty, which was released on 12 October 1999. The timing of your statement is unfortunate. It appears on the eve of a major debate on the issue of the death penalty in the Third Committee. It could be used for partisan purposes during the debate. Hence, we feel obliged to make this statement for the record.

2. Singapore is one of the many countries where capital punishment is prescribed as the penalty for the most serious crimes, including the wilful taking of another human's life, drug-trafficking, kidnapping for ransom and the use of firearms when committing violent crimes.

3. Singapore takes the view that, given the nature of our society and the time in history, the use of capital punishment for the most serious offences is warranted and in accordance with the expectations of our people.

4. Singapore is at present a safe and relatively crime-free society. We have also managed to check and then minimize the use and spread of dangerous drugs. We believe that our strong laws against crime, together with effective enforcement of these laws, are the main factors in bringing this about. The effective but fair use of capital punishment plays an important role in this regard.

5. While we continue with the use of capital punishment for heinous crimes, we do not advocate that other countries do or do not do likewise. Capital punishment is used in Singapore because it is appropriate given the nature of our society, the ends we seek to achieve and the expectations of our people. Other societies may be constituted differently with different values and different expectations of the government and other national institutions. It is for each society to determine for itself whether capital punishment would be an appropriate penalty in their circumstances and at that point in time.

6. Each State and the society it encompasses is unique and must be allowed to determine its own values and aspirations and the means of achieving these. This, we suggest, must be particularly so where matters affecting the safety and security of its people are concerned.

7. The simple propositions we outlined above reflect what has always been recognized at the international plane. International instruments which apply to countries with wide divergences in cultures and values such as the International Covenant on Civil and Political Rights and the American Convention on Human Rights do not proscribe the use of the death penalty in their texts. Where this was provided for, it was placed in Optional Protocols which, by their terms, are optional. As you have noted, only 24 countries have signed the second Optional Protocol to the International Covenant on Civil and Political Rights. They did so because they consider the death penalty inappropriate for them. The overwhelming majority of the countries of the world have not ratified this Optional Protocol. We suggest this because they are of the view that it is inappropriate for them to do so, given their circumstances.

8. Singapore is unable to agree with your assertion that the use of capital punishment runs counter to internationally agreed human rights standards and practices. In fact, if we are to look at the practice of States as indicative of standards, then there are more States where capital punishment is provided for than States that have abolished this penalty. Even if we are to look at international trends, we find that in recent times, many States that have

abolished capital punishment have subsequently reinstated this penalty because of their own considerations.

9. Thus, we do not think that referring to international trends is relevant to the issue as this is a matter to be determined by each State according to its own considerations. In any event, the international trends here are, at the most, inconclusive.

10. Singapore recognizes that the death penalty is a severe penalty and cannot be remedied in the event of any mistake in its application. That is why we have used it sparingly and only for the most heinous crimes. More importantly, we do our utmost to ensure that any prosecution involving the death penalty is handled with the greatest care, that the investigations are thorough and fair, that the trial is conducted with due process, that the accused are given adequate legal representation and that only persons of the highest integrity are assigned as judges on such matters. Through all these we ensure that no person who may be innocent of the crime against him is subjected to this penalty. To date, there has been no suggestion by any person appraised of the relevant facts that any innocent person has been executed in Singapore.

11. Capital punishment has been and will continue to be used in Singapore for so long as our circumstances deem this to be appropriate. But I should stress, and stress repeatedly, that what is appropriate for us may not necessarily be appropriate for others. Singapore does not congratulate or condemn countries that choose to either retain or abolish the death penalty. We assume that the choices they made are based on factors peculiar to them and which they may apply only at a particular point in time. We respect the choices made by these countries.

12. We ask that international bodies do likewise.

(*Signed*) Kishore **Mahbubani**
Ambassador Extraordinary and Plenipotentiary

United Nations A/C.3/54/6

General Assembly

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Fifty-fourth session
Third Committee

Organization of work of the Third Committee

Note by the Secretariat

1. The Controller of the United Nations has requested that the following be brought to the attention of the delegations in the Third Committee.

2. A review of resolutions and decisions adopted by the Third Committee and the Economic and Social Council and its functional commissions in recent years shows an increasing tendency in such texts to deal with administrative and budgetary matters.

3. As an example related to the current session, in draft resolution A/C.3/54/L.5, the General Assembly, in operative paragraph 5, would request the Secretary-General, within existing or extrabudgetary resources, to convene an expert group and, in operative paragraph 6, would also request the Secretary-General to facilitate the participation of experts from developing countries in the meeting of the expert group by providing, from within existing or extrabudgetary resources, for the travel of experts from such countries.

4. Another example is draft resolution A/C.3/54/L.6 where, in operative paragraph 9, the Secretary-General would be requested to undertake, within existing or extrabudgetary resources, technical cooperation activities to combat corruption, in consultation with Member States that may be able to provide assistance.

5. Other examples are to be found in draft resolutions A/C.3/54/L.19, A/C.3/54/L.20, A/C.3/54/L.24, A/C.3/54/L.26 and A/C.3/54/L.27 which, in various paragraphs, touch upon budgetary and/or administrative issues and in draft resolution A/C.3/54/L.28, in which the Third Committee would recommend that the General Assembly decide to increase the financial sources, including those coming from the United Nations regular budget, designed specifically to contribute to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

6. The attention of the Committee is drawn to the provisions of section VI of resolution 45/248 B of 21 December 1990, in which the General Assembly:

(a) Reaffirmed that the Fifth Committee was the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters;

99-32832 (E) 031199

(b) Reaffirmed also the role of the Advisory Committee on Administrative and Budgetary Questions;

(c) Expressed its concern at the tendency of its substantive Committees and other intergovernmental bodies to involve themselves in administrative and budgetary matters;

(d) Invited the Secretary-General to provide all intergovernmental bodies with the required information regarding procedures for administrative and budgetary matters.

7. Should it be the wish of the Committee, the Controller and the staff in his office stand ready to provide the Committee with all relevant information regarding these procedures.

United Nations A/C.3/54/7

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Fifty-fourth session
Third Committee
Agenda item 114
Elimination of racism and racial discrimination

Report of the Committee on the Elimination of Racial Discrimination

Note by the Secretariat

The attention of the Third Committee is drawn to decision 4 (55), contained in chapter I of the report of the Committee on the Elimination of Racial Discrimination,[1] in particular paragraphs 1 and 2.

[1] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 18* (A/54/18).

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Agenda item 116 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Letter dated 1 October 1999 from the Permanent Representative of Finland to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement on the Democratic Republic of the Congo issued on 22 September 1999 by the Presidency of the European Union on behalf of the Union (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the General Assembly under agenda item 116 (c).

(*Signed*) Marjatta **Rasi**
Permanent Representative of Finland
to the United Nations

99-33917 (E) 121199

Annex

[Original: English and French]

Statement on the Democratic Republic of the Congo issued on 22 September 1999 by the Presidency of the European Union on behalf of the Union*

In its statement of 3 September 1999 (A/54/331-S/1999/959, annex), the European Union acknowledged the completion of the signing of the Lusaka Agreement (S/1999/815, annex) and expressed its readiness to support the implementation of the Agreement, provided that all the parties themselves implemented it in accordance with its terms.

However, the European Union remains deeply concerned about the delays in the implementation of the Agreement by the parties, and the continued military activities and hostile propaganda. The essential requirements for the implementation of the Agreement have not been fulfilled: for instance, the selection of the representatives for the Joint Military Commission has not been completed and the facilitator for the national dialogue has not been agreed upon by all the parties.

The European Union therefore strongly urges all parties to fully abide by the contents and timetable of the Agreement, which is the negotiated instrument for a peaceful solution of the conflict. The European Union also encourages the United Nations and the Organization of African Unity to make all necessary efforts to support the implementation of the Agreement.

The European Union continues to be willing to support various components in the implementation of the Agreement, such as the peacekeeping operations by the United Nations and the Organization of African Unity, the Joint Military Commission, the national dialogue, the reintegration of refugees and displaced people in their countries of origin and the process of democratization, rehabilitation and reconstruction in the Democratic Republic of the Congo.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus and Malta, and the countries of the European Free Trade Association members of the European Economic Area align themselves with the present statement.

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* Previously circulated as document S/1999/1005, annex

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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Letter dated 1 October 1999 from the Permanent Representative of Finland to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the statement on East and West Timor issued on 21 September 1999 by the Presidency of the European Union on behalf of the Union (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the General Assembly under agenda item 116 (c).

(Signed) Marjatta **Rasi**
Permanent Representative of Finland
to the United Nations

99-33923 (E) 121199

Annex

[Original: English and French]

Statement on East and West Timor issued on 21 September 1999 by the Presidency of the European Union on behalf of the Union*

The European Union welcomes the progress in the deployment of the international force in East Timor. It shows the willingness of the international community to find a peaceful and lasting solution to the question of East Timor based on the self-determination of the people of East Timor. Fear is giving way for hope in East Timor.

We commend and continue to support the work of the Secretary-General and the United Nations Mission in East Timor in pursuing the consultation process towards the independence of East Timor.

The European Union praises the contribution of those States Members of the United Nations that have provided troops and material support to the international force. The participation of regional States is especially important for the success of the operation. We wish to pay tribute to those Asian and, in particular, Association of Southeast Asian Nations States that have contributed to the establishment of the international force. It clearly shows their interest in the maintenance of peace and security in the region.

In this context, we commend the cooperation of the Indonesian Government with the international force. Complete and early withdrawal of the Indonesian armed forces from East Timor as well as rapid containment and disarmament of any paramilitary elements in the territory is crucial for the operation to achieve its immediate objectives, namely, to protect the civilian population and allow an immediate and full-scale beginning of humanitarian assistance.

The European Union remains gravely concerned over the humanitarian situation in East Timor and, particularly, in West Timor. The European Union repeats its earlier appeals for allowing immediate safe access for international humanitarian organizations to both East and West Timor. Refugees in West Timor must be free to decide themselves whether they want to return to East Timor. Indonesian authorities remain responsible for their safety and humanitarian needs. The international community stands ready to help the Indonesian authorities.

The European Union supports calls for the establishing of an international commission of inquiry to investigate cases in which international humanitarian law has allegedly been violated. Impunity for atrocities cannot be tolerated.

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* Previously circulated as document S/1999/1004, annex.

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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Letter dated 9 November 1999 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have been instructed by my Government to present its comments on the report of 24 September 1999 (A/54/396-S/1999/1000), submitted by Mr. Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, specifically the part relative to the Federal Republic of Yugoslavia.

1. As in the past, the Special Rapporteur has demonstrated also in this report that reporting on the situation of human rights in the Federal Republic of Yugoslavia has become highly politicized and that he is unable to fulfil his mandate impartially and independently. This is evinced primarily by the methodology of the reporting, which is a function of the relativization and/or outright cover-up of the violation of the human rights of Serbs in Kosovo and Metohija, the autonomous province of the Yugoslav constituent Republic of Serbia, massive crimes against the population of the Federal Republic of Yugoslavia and the violation of all norms of international law during the aggression of the North Atlantic Treaty Organization (NATO), including the Charter of the United Nations and numerous international human rights conventions and, subsequently, of Security Council resolution 1244 (1999). The presentation in the report of the bombing of the headquarters of Radio Television Serbia, one among many grave crimes committed by NATO against the civilian population, is paradigmatic in that regard. The case is presented, in fact deliberately hidden, within chapter V, section D, 1 (c), *Freedom of expression* (para. 101), by a manipulative juxtaposition of alleged abuses of journalism and journalists in Serbia, criticism of "informative talks", control of the media by the army under martial law and other alleged restrictions on the freedom of expression in the Federal Republic of Yugoslavia, intended to becloud the NATO crime and exculpate the perpetrator.

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2. Describing the situation in Kosovo and Metohija, on occasions the Special Rapporteur uses the data dating back to 1998 and already considered in his report to last year's session of the General Assembly. This is aimed at shifting the responsibility for the situation of human rights in the Federal Republic of Yugoslavia onto the authorities of the Federal Republic of Yugoslavia and the Republic of Serbia and at justifying the NATO intervention on humanitarian grounds and those of the protection of human rights. This manipulation is calculated at exonerating NATO and its member States from the responsibility for the open, illegal, massive and genocidal aggression against the Federal Republic of Yugoslavia between March and June 1999. The contention, raised widely before, that the activities of Yugoslav and Serbian security forces were the main cause of the fear and exodus of the population from Kosovo and Metohija before the NATO intervention is repeated with the same goal in mind. It is inaccurate and tendentious and a function of acquitting NATO from the responsibility for all the acts it committed in wanton disregard for the principles of the contemporary international legal system. Accordingly, in chapter V, sections E, *Concluding observations*, and F, *Recommendations* (paras. 122 and 123), the report falls far short of focusing on gross violations of each and every United Nations convention or covenant on human rights, as well as the Charter of the United Nations, committed in the NATO aggression and on the countless crimes of the so-called Kosovo Liberation Army (KLA) after the deployment of KFOR and UNMIK in Kosovo and Metohija.

3. The methodology of the report is accountable for another obfuscation: in an effort to scale down their size and significance, the human rights abuses evident in the use of cluster bombs and depleted uranium, the ethnic cleansing of Serbs after the aggression and the destruction of civilian infrastructure are immediately referenced to alleged violations of human rights by the Yugoslav side.

4. Alleging that the source of all problems are systemic failures to respect or protect human rights throughout the Federal Republic of Yugoslavia, while tiptoeing around massive NATO human rights violations in Kosovo and Metohija and keeping silent about the same NATO violations in the rest of the Federal Republic of Yugoslavia is morally suspect. Furthermore, the contention that NATO failed to prevent humanitarian catastrophe and the Yugoslav and Serbian forces from conducting a systemic campaign of terror is a *non sequitur* as the catastrophe and the campaign did not exist in the first place.

5. Chapter V, section D, 1 (d), *Effects of air strikes* (para. 102), does mention NATO "intensive" air strikes, but fails to relate them to the actual violations of the generally accepted norms in the field of human rights and humanitarian law. This is no surprise as a different approach would have entailed a condemnation of the violations and, presumably, a call to account to the perpetrators.

6. The contention in chapter V, section D, 1 (f), *Kosovo* (para. 107), that there has been a coordination of actions between the competent Yugoslav and Serbian authorities (Army of Yugoslavia and the police) and paramilitaries is untrue.

7. Chapter V, section D, 1 (g), *Refugees* (para. 109), addresses the very difficult refugee situation in the Federal Republic of Yugoslavia. However, it distorts some of its parameters by blaming the war for slowing or completely stopping the process of refugee returns to Croatia. It is the manipulative policy of the Croatian authorities that prevents the Serbian refugees from returning home in substantial numbers and that policy should be condemned.

8. Chapter V, section D, 2, *After the war* (paras. 111-121), does register, in paragraph 112, "the failure of the international community to place the territory [Kosovo and Metohija] under control, secure the peace, and provide the basic services and protections of governance". However, the subsequent contention that "Many violations of human rights

now being perpetrated by non-State actors are not dissimilar to those which preceded NATO intervention" is a false parallel invoked to mitigate the failure. The Special Rapporteur also fails to identify the perpetrators of these violations.

9. The Special Rapporteur has been commendably frank in reporting the "continued existence of detention centres maintained and controlled by the KLA and Kosovo Albanian paramilitaries" and the fact that KFOR located several such centres within Kosovo and Metohija, at least two of which — in Prizren and Gnjilane — contained instruments of torture. The Special Rapporteur has also noted that KFOR has not aggressively prosecuted KLA commanders in regions where it has located detention centres and that it has failed to locate and arrest KLA "police" and "military police" associated with detentions and abductions and that, according to reliable reports, KFOR officers have relied and continue to rely on information provided by KLA on persons whom KFOR should itself arrest. The Special Rapporteur has also presented the case of a KFOR official in Pec who told him, following a request by family members for an enquiry into the whereabouts of a Montenegrin police officer reported as abducted during the war in the Italian sector, that "there are no police who are not guilty of crimes". Considering these gross violations of human rights and the blatant failure to prevent them by those who are expected to do so, it is regrettable that the Special Rapporteur has not been more specific in rendering proper recommendations. Such abuses may indeed subvert "the rule of law and the fundamental principle of presumption of innocence and erode the authority of KFOR and civilian police", but they will not end if they are not stigmatized and addressed.

10. Concluding observations and recommendations have been simplified and do not correspond with the gravity of the situation in the reporting period, which relates to the most flagrant violations of the human rights of the population of the Federal Republic of Yugoslavia during and after the NATO aggression. The report makes no serious mention of the past and present responsibility of the terrorist so-called KLA for the atrocities committed against the Serbs and Montenegrins and other non-Albanians in Kosovo and Metohija. As if it were an institution of authority and not a terrorist organization and a group of criminals, the KLA is requested to provide data and information on detainees since March 1998. The report fails to reveal the true nature and intentions of this terrorist separatist organization and its collaboration with NATO and KFOR and has no word of condemnation of that collaboration.

11. Considering the enormous gravity of many problems that have not been given the attention they deserve, the report emphasizes unjustifiably the question of prisoners transferred from Kosovo and Metohija to central Serbia.

12. In its entirety, the report diverts attention from, or is completely silent about, the persecution and ethnic cleansing of over 330,000 Serbs, Montenegrins, Roma, Turks, Gorani, Muslims, Croats and other non-Albanians from Kosovo and Metohija, which continue unabated in the presence of KFOR and UNMIK.

I should be grateful if you would have the present letter published as a document of the fifty-fourth session of the General Assembly under agenda item 116 (c) entitled "Human rights questions: human rights situations and reports of Special Rapporteurs and Representatives".

(*Signed*) Vladislav **Jovanovic**
Chargé d'affaires a.i.